

Notice of Allowability

Application No.

10/796,521

Examiner

Nicholas A. Smith

Applicant(s)

BURG ET AL.

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2 March 2007.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 13-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: an anode assembly with a heat radiation shield classified in class 204, subclass 286.1, independent from that of original presented method of operating an inert anode assembly in aluminum production, in class 205, subclass 372.
2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-20 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.
3. On 30 April 2007 in a telephone conversation, Applicant has been advised of the above election and Heath J. Briggs has cancelled claims 13-20.

Status of Claims

4. Claims 1-12 remain for examination. Claims 13-20 have been cancelled.

Response to Arguments

5. Applicant's arguments, see remarks p. 5, filed 2 March 2007, with respect to claim 1 have been fully considered and are persuasive. The 35 U.S.C. 102(b) of Claims 1 and 4 under Bates et al. (US 6,447,667) has been withdrawn.

Allowable Subject Matter

6. Claims 1-12 are allowed. In regards to claim 7, a statement of reasons for allowance was given in the previous office action.

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7. The following is an examiner's statement of reasons for allowance: In regards to instant claim 1, Bates et al. (US 6,447,667) discloses a method of protecting inert anode assemblies from thermal shock, but Bates et al. and prior art do not operate an electrolysis cell with a heat radiation shield that is attached to the inert anode assembly and is spaced from the anodes of the inert anode assembly and does not disintegrate in contact with cryolite fumes and remains intact. It is noted that Bates et al. discloses a heat radiation shield in the crust on the sidewall of the cell, but such crust is not attached to the inert anode assembly. Bates et al. uses a multi-layer coating of aluminum and carbon to protect the inert anode assemblies, however it is noted that the carbon is oxidized before entry of inert anode assembly into the electrolytic bath; additionally, the carbon does not coat the inert anode assembly portion that is not an anode. Bates et al. first layer of aluminum would not remain intact in the fused bath. Claims 2-6, which are dependent on claim 1, are thus allowable.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER'S AMENDMENT

9. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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10. Authorization for this examiner's amendment was given in a telephone interview with Heath J. Briggs on 30 April 2007.

The application has been amended as follows:

11. Claims 13-20 have been cancelled.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. D'Astolfo et al. discloses an inert anode assembly with a thermal protective coating wherein the coat dissolves in the electrolyte.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas A. Smith whose telephone number is (571)-272-8760. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571)-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NAS

ROY KING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700